

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

MAUREEN STEWART, an individual,
KELLY LAMICELLA, an individual, and
NICOLE BELLO, an individual, on behalf
of themselves and all others similarly
situated, and ROES 1 through 100,
inclusive,

Plaintiffs,

vs.

BEAM GLOBAL SPIRITS & WINE,
INC., a corporation; JIM BEAM
BRANDS, CO.; SKINNY GIRL
COCKTAILS, LLC; SGC GLOBAL, LLC;
BETHENNY FRANKEL, and DOES 1
through 100, inclusive,

Defendants.

Civil Action No. 1:11-cv-05149 (NLH)
(KMW)

STIPULATION AND ORDER

WHEREAS, pursuant to the Amended Scheduling Order previously entered in this action (Docket Nos. 120-1, 121), pretrial factual discovery on the merits is scheduled to conclude on February 28, 2014;

WHEREAS, Plaintiffs have indicated to Defendants by letter dated February 19, 2014 that Plaintiffs believe certain factual discovery remains outstanding;

WHEREAS, responses to subpoenas issued by Plaintiffs to non-parties, Palm Bay International, Inc. ("PBI") and Buy-Rite Liquors ("Buy-Rite") (the "Subpoenas") remain outstanding and it is uncertain whether fully-responsive productions will be made by PBI and Buy-Rite pursuant to the Subpoenas in advance of the currently-scheduled February 28, 2014 end date for pretrial factual discovery on the merits;

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WHEREAS, counsel for the parties met and conferred regarding the aforementioned topics in a conference telephone call on February 21, 2014;

WHEREAS, Plaintiffs have previously met and conferred with counsel for PBI regarding Plaintiffs' subpoena to PBI;

WHEREAS, the parties believe that a brief extension of the end date for pretrial factual discovery on the merits is desirable with respect to the specific issues raised in Plaintiffs' February 19, 2014 letter to Defendants and will facilitate diligent pretrial preparation of the case;

NOW THEREFORE, the parties hereby stipulate and agree that:

1. Pretrial factual discovery on the merits will be extended for thirty (30) days, i.e., to March 31, 2014 for the following purposes.

2. The Beam Defendants will re-review their documents to determine whether production of any "Dunn Humby" or "dunnhumby" sales-related information was inadvertently not made. Any responsive documents discovered as a result of such search shall be produced fourteen (14) days from the date of entry hereof;

3. Plaintiffs shall promptly supply the Skinnygirl Defendants with additional search terms relating to DISCUS pricing data and the Skinnygirl Defendants shall search those terms and produce any responsive documents within fourteen (14) days of receipt of additional search terms;

4. The Beam Defendants will search for additional responsive Facebook data not previously produced, if any, and produce any such previously-omitted data within fourteen (14) days of the date of entry hereof, or, within such time, confirm that no additional responsive documents exist;

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5. Within fourteen (14) days of the date of entry of this Stipulation, the Beam Defendants shall produce the additional documents requested at the deposition of Steven Fechheimer, namely: (a) Beam's litigation hold notice; (2) a redacted Asset Purchase Agreement, and; (c) written permission from CRT to use the "all natural" label for a period of time following Beam's acquisition of Skinnygirl Margarita,;

6. Plaintiff shall furnish examples of communications between PBI and Defendants which Plaintiffs desire to share with PBI to facilitate PBI's response to Plaintiffs' subpoena to PBI, and Defendants shall consent, or not, to Plaintiffs' providing such example documents to PBI within seven (7) days of receipt of such example documents by Defendants. Provided PBI executes Exhibit A to the protective order in this action (Docket No. 88) and Defendants consent, Plaintiffs may share the example documents with PBI to facilitate PBI's subpoenaed response;

SKOLOFF & WOLFE, P.C.
293 Eisenhower Parkway
Livingston, New Jersey 07039
(973) 992-0900
Attorneys for Plaintiffs Maureen Stewart
and Kelly Zamicella


David B. Wolfe

GREENBERG TRAURIG, LLP
200 Park Avenue
Florham Park, New Jersey 07932
(973) 360-7900
Attorneys for Defendants Skinny Girl
Cocktails, L.L.C., SGC Global, L.L.C.
and Bethenny Frankel


David E. Sellinger

7. ~~Notwithstanding~~ Plaintiff shall file expert reports and expert disclosure 30 days after the court's opinion and order on the pending motion to certify class (Doc. No. 123) is decided. Thereafter, the Court shall conduct a telephone conference to determine remaining discovery deadlines.

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BALLARD SPAHR LLP
210 Lake Drive East, Suite 200
Cherry Hill, NJ 08002
(856) 761-3482

and

CHADBOURNE & PARKE LLP
30 Rockefeller Plaza
New York, NY 10112
(212) 408-5205

*Attorneys for Defendants Beam Global
Spirits & Wine LLC and Jin Beam
Brands Co.*


Mary T. Yelcick

KINSELLA WETZMAN ISER KUMP
& ALDISERT, LLP
808 Wilshire Boulevard, 3rd Floor
Santa Monica, CA 90401
(310) 566-9841

*Attorneys for Defendant Bethenny
Frankel*


Laura D. Castner

SO ORDERED:


Hon. Karen M. Williams, U.S.M.J.

Dated: February 24, 2014